

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE:

Case No. 07-65115

MARY ANN E. SCHWEITZER,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING MOTION FOR RECONSIDERATION

This case comes before the Court on Debtor's "Ex-Parte Motion to Reinstate Case," filed on May 14, 2010 (Docket # 73, the "Motion"), which this Court construes as a motion for reconsideration of, and for relief from, the May 13, 2010 Order dismissing this case (Docket # 66), and

The Court having reviewed and considered the Motion, and

The Court finds the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

The Court also finds that the allegations in the Motion do not establish excusable neglect under Fed.R.Civ.P. 60(b)(1), FedR.Bankr.P. 9024, or any other valid ground for relief from the order dismissing this case.

In addition, the Court notes the following. First, any neglect or mistake by Debtor's counsel, is generally attributable to the Debtor, for purposes of determining whether any such neglect or mistake was excusable. *See, e.g., Pioneer Investment Services Co. v. Brunswick Associates Limited Partnership*, 507 U.S. 380, 396-97 (1993)(in determining whether "excusable neglect" is shown, "the proper focus is upon whether the neglect of [the movants] *and their counsel* was excusable" (italics in original)).

Second, the Motion does not allege anything that would permit the Court to find that Debtor counsel's neglect or mistake here is excusable.

Third, the missing Chapter 7 means test form was due to be filed no later than May 12, 2010, and still has not been filed.

Fourth, neither this Order nor the order dismissing this case precludes the Debtor from filing a new bankruptcy case.

NOW, THEREFORE,

IT IS ORDERED that the Motion should be, and is, DENIED.

Signed on May 17, 2010

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge